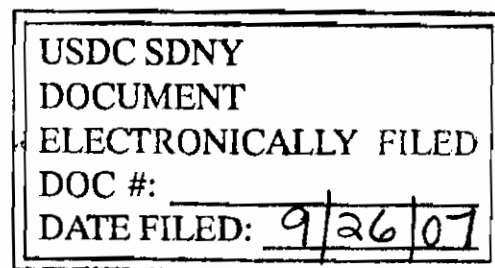
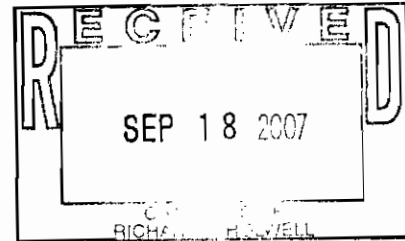


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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

RODGER ZEPKA, ELENO RAMOS, ENVIOS RD
 CORPORATION AND DOMINICAN
 COMMUNICATIONS CORPORATION,

Plaintiffs,

-against-

NEXXAR GROUP, INC.,

Defendant.

Index No.: 07 CV 7405 (RJH)(GWG)

ECF Case

**STIPULATION AND ORDER
 DISMISSING COMPLAINT'S
 SIXTH CAUSE OF ACTION
 AND REMAND OF ACTION TO
NEW YORK STATE COURT**

WHEREAS, Plaintiff commenced this action by filing a complaint in the New York State Supreme Court on or about May 17, 2006, Index No. 601770/06 (the "Action"); and

WHEREAS Defendant filed an answer with counterclaim on or about May 24, 2006; and

WHEREAS the New York State Supreme Court issued an order duly entered on July 18, 2007 in the Office of the County Clerk in which the Court (Hon. Bernard Fried, J.S.C.), *inter alia*, denied defendant's motion for summary judgment and granted Plaintiffs' motion to amend the complaint, which was attached to the motion papers in support, and directed that the amended complaint be deemed served upon service of a copy of the order with notice of its entry and that defendant serve an answer to the amended complaint within 20 days from the date of service; and

WHEREAS the amended complaint asserted three new causes of action, one of which is for contributory trademark infringement arising from defendant's alleged violations of 15 U.S.C. §§ 1114 and 1125; and

WHEREAS notice of entry with the order was served by mail on July 27, 2007; and

WHEREAS defendant has filed a notice of removal of the Action on August 20, 2007 and an answer with counterclaim to the amended complaint on August 24, 2007; and

WHEREAS the removal notice served by defendant alleges that the federal court has subject matter jurisdiction over the Action by virtue of the sixth cause of action asserted in the amended complaint for contributory trademark infringement and supplemental jurisdiction over the remaining causes of action and counterclaim pursuant to 28 U.S.C. §§1367 and 1441 (c); and

WHEREAS the parties have reached an agreement whereby in exchange for the consensual remand of the entire Action to the New York State Supreme Court, Plaintiffs agree to dismiss the sixth cause of action for contributory trademark infringement arising from defendant's alleged violations of 15 U.S.C. §§ 1114 and 1125, with prejudice, thereby eliminating any federal question before this Court, and to fully and forever release and discharge Defendant together with its employees, officers, directors, principals, agents, heirs, executors, administrators, predecessors,

successors, assigns, representatives, parents, affiliates, investors, owners and subsidiaries, including without limitation Omnex ("Defendant-Releasees"), and each of them, from any and all claims, causes of action, disputes, controversies, demands, contracts, obligations, suits, debts, costs or liabilities arising solely out of alleged contributory trademark infringement or violations of 15 U.S.C. §§ 1114 and 1125 whether known or unknown, which Plaintiffs ever had, now have, or may hereafter claim to have had, against any of the Defendant-Releasees relating to the Defendant-Releasees' use of the Pronto trademark and logo;

NOW, THEREFORE, it is hereby

STIPULATED AND AGREED as follows:

1. Plaintiffs hereby voluntarily dismiss the sixth cause of action in the amended complaint alleging contributory trademark infringement with prejudice.
2. All other existing claims pled by the parties in their pleadings shall continue to be litigated in the New York State Supreme Court.
3. The parties jointly request that this stipulation be "so ordered" which shall constitute a dismissal with prejudice of the amended complaint's sixth cause of action for contributory trademark infringement claim only pursuant to Fed R. Civ. Pro. 41 (a) (2).
4. The parties jointly request that this stipulation be "so ordered" which shall also constitute an order of the Court remanding the entire Action to the New York State Supreme Court.
5. All parties shall bear their own costs, fees, disbursements and expenses in connection with the removal to federal court, remand to state court, and voluntary discontinuance of the contributory trademark infringement claim as described herein. The parties forever release the others from such costs, fees, disbursements and expenses related thereto.

6. Defendant-Releasees are fully and forever released from any and all claims, causes of action, disputes, controversies, demands, contracts, obligations, suits, debts, costs or liabilities relating solely to the alleged contributory trademark infringement or violations of 15 U.S.C. §§ 1114 and 1125 whether known or unknown, which Plaintiffs ever had, now have, or may hereafter claim to have had, against any of the Defendant-Releasees relating to the Defendant-Releasees' use of the Pronto trademark and logo.

7. Plaintiffs together with their employees, officers, directors, principals, agents, heirs, executors, administrators, predecessors, successors, assigns, representatives, parents, affiliates, investors, owners and subsidiaries ("Plaintiffs-Releasees") and each of them, are fully and forever released from any and all claims, disputes, controversies, demands, causes of action, contracts, obligations, suits, debts, costs or liabilities relating to the use by Defendant-Releasees of the Pronto trademark and logo.

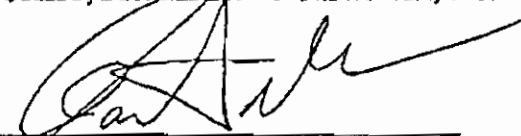
Dated: New York, New York
September 14, 2007

KIRKLAND & ELLIS, LLP

By: 
Abigail M. Diaz-Pedrosa (AD 0502)

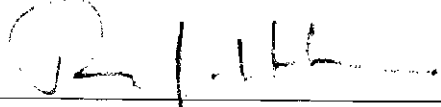
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SO ORDERED:



RICHARD J. HOLWELL, U.S.D.J.
9/17/07